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TITLE OF DOCUMENT(S):

- Transmittal
- Applicant Initiated Interview Request Form
- Continuation Sheet
- Declaration Draft
- Receipt Acknowledgement Postcard

Application No. 10/768,744

File No. 120-000220US

Date Mailed January 27, 2010

Atty/Secty. SML:sjj



QUINE INTELLECTUAL  
PROPERTY LAW GROUP P.C.  
2033 CLEMENT AVE. STE 200  
ALAMEDA CA, 94501

<h2 style="margin: 0;">TRANSMITTAL FORM</h2> <p style="margin: 5px 0;"><i>(to be used for all correspondence after initial filing)</i></p>	<b>Application Number</b>	10/768,744
	<b>Filing Date</b>	February 2, 2004
	<b>First Named Inventor</b>	Christopher A. Hunter
	<b>Group Art Unit</b>	1647
	<b>Examiner Name</b>	Cherie Michelle Woodward
<b>Total Number of Pages in This Submission</b>	<b>Attorney Docket Number</b>	120-000220US

ENCLOSURES <i>(check all that apply)</i>		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Response <input type="checkbox"/> Amendment and Request for Reconsideration <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input checked="" type="checkbox"/> Receipt Acknowledgement Postcard <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> PTO-1449 Form <input type="checkbox"/> Cited References <input type="checkbox"/> Copy of PCT Search Report <input type="checkbox"/> Copy of EP Search Report <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Small Entity Statement <input type="checkbox"/> Request for Refund	<input checked="" type="checkbox"/> Applicant Initiated Interview Request Form <input type="checkbox"/> Request for Continued Examination (RCE) <input type="checkbox"/> Request for Corrected Filing receipt <input type="checkbox"/> Copy of Filing Receipt – marked up <input type="checkbox"/> Replacement Application Data Entry Form <input checked="" type="checkbox"/> Additional Enclosure(s) <i>(please identify below):</i> <div style="border: 1px solid black; padding: 5px; min-height: 50px;">         Continuation sheet; Declaration draft       </div>
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<div style="border: 1px solid black; width: 100px; height: 20px; float: right;">Remarks</div>		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Stacy Landry, Reg. No. 42,779, Quine Intellectual Property Law Group, P.C.
Signature	
Date	January 27, 2010

CERTIFICATE OF MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Typed or printed name	Sarah Jeromin		
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## Applicant Initiated Interview Request Form

Application No.: 10/768,744 First Named Applicant: Christopher A. Hunter  
Examiner: Cherie Michelle Woodward Art Unit: 1647 Status of Application: \_\_\_\_\_

**Tentative Participants:**

- (1) Stacy Landry (2) Christopher A. Hunter  
(3) Cherie Michelle Woodward (4) Gary Nickol

Proposed Date of Interview: February 2, 2010 Proposed Time: 12:00 PM (AM/PM)  
(Eastern Standard Time)

**Type of Interview Requested:**

- (1) ☒ Telephonic (2) ☐ Personal (3) ☐ Video Conference

Exhibit To Be Shown or Demonstrated: ☒ YES ☐ NO  
If yes, provide brief description: Summary of state of the art at the time of applicants' invention.

## Issues To Be Discussed

Issues (Rej., Obj., etc)	Claims/ Fig. #s	Prior Art	Discussed	Agreed	Not Agreed
(1) <u>Priority Claim</u>	<u>All pending</u>	<u>Art. Villarino</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2) <u>102 Rejections</u>	<u>All pending</u>	<u>All cited art</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3) <u>State of the art</u>	<u>All pending</u>	<u>Summary attached</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/> Continuation Sheet Attached					

**Brief Description of Arguments to be Presented:**  
Please see continuation sheet, which is attached.

An interview was conducted on the above-identified application on \_\_\_\_\_.  
**NOTE:** This form should be completed by applicant and submitted to the examiner in advance of the interview (see MPEP § 713.01).  
This application will not be delayed from issue because of applicant's failure to submit a written record of this interview. Therefore, applicant is advised to file a statement of the substance of this interview (37 CFR 1.133(b)) as soon as possible.

Applicant/Applicant's Representative Signature

Examiner/SPE Signature

Stacy Landry

Typed/Printed Name of Applicant or Representative

42,779

Registration Number, if applicable

This collection of information is required by 37 CFR 1.133. The information is required to obtain or retain a benefit by the p  
USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is e  
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**Brief Description of Arguments to be Presented:**

(1) Applicants priority document cannot be completely disregarded as a priority document and then be used as extrinsic evidence against Applicants to show the state of the art at the time of the invention.

(2) The cited art does not teach using an IL-27R agonist for immune suppression. The cited art teaches using IL-27R agonists for immune activation. The cited art teaches generally that agonists and antagonists of cytokines can be used to modulate the immune system. It does not teach the particular species claimed.

(3) The state of the art at the time of the invention clearly shows that Applicants invention was, at the time, a novel and surprising use for an IL-27R agonist. In fact, what one of skill in the art at the time of the invention believed was exactly opposite to what is claimed.

Draft Summary of IL-27 Art  
To aid in preparation for interview

The following is a narrative that outlines the critical publications that first described the role of the IL-27R (WSX-1/TCCR) in promoting inflammation, the description of IL-27 (composed of p28 and EBI3) and the initial description of the EBI3 KO mice. Also included are references from independent sources that summarize the consensus at various times on the biology of IL-27.

1. The IL-27R (WSX-1) cloned and identified as a type I cytokine receptor and postulated to have a role in the immune system (1).
2. EBI3 cloned (2) , proposed to form a heterodimer with IL-12 p35 (3)(to form what is now known as IL-35) and knocked out(4). Mice were reported to be resistant to oxazolone induced colitis and had reduced production of TH1 (IFN- $\gamma$ ) and TH2 (IL-4) cytokines. Also reported that they had a developmental defect in invariant NKT cells – and this was suggested to provide an explanation for the lack of disease as these iNKT cells contribute to this model of oxazolone-induced inflammation. These data provided really the first indication that EBI3 was required for inflammatory responses.
3. The first KO of the IL-27R is reported by a research group from Genentech headed by Fred Desauvage and which contained Nico Ghilardi(5). In this manuscript they presented data that the TCCR (IL-27R) deficient mice had a defect in the ability to produce IFN and consistent with this observation these mice were more susceptible to infection with *Listeria*. This led the authors to conclude that their “results demonstrate the existence of a new cytokine receptor involved in regulating the adaptive immune response and critical to the generation of a Th1 response”.

The apparent specificity of the phenotype described here makes TCCR and its potential ligand candidate targets for therapeutic intervention in Th1-mediated autoimmune disease and allograft rejection.

4. Studies from Hiroki Yoshida in the laboratory of Tak Mak in Toronto were published in *Immunity* in 2001 and showed that WSX-1 (IL-27R) KO mice were more susceptible to infection with the parasite *Leishmania*(6). These data were consistent with reduced production of IFN- $\gamma$  in these mice and the authors concluded that “WSX-1 is essential for the initial mounting of Th1 responses”
5. In 2002, studies from the laboratory of Robert Kastelein at DNAX revealed that WSX-1 was a receptor for a novel cytokine composed of p28 and EBI3 which they called IL-27(7). In that manuscript they showed that IL-27 could promote the production of IFN- $\gamma$  from NK and T cells.
6. At this point, a consensus was emerging that IL-27, and signaling through its receptor, was an important step in the generation of Th1 responses. This idea is highlighted in

several reviews that were published at the time by independent experts in the field. For example Robinson and O'Garra (8) concluded that "IL-27 appears to act at an early stage in Th1 development in a manner distinct from IL-12". In that same year, two leading experts in the field of T cell differentiation Ken Murphy and Steve Reiner summarized the state of the field in their review article in *Nature Reviews Immunology* (9). In that review they have a section devoted to "Recently discovered Th1-cell-promoting factors" and highlight the role of IL-27 in these events and in Figure 8 of that article clearly place IL-27 as a factor that promotes the early differentiation of Th1 cells. Similarly Brombacher and colleagues in a review article concluded that "IL-27 is involved in early Th1 initiation" (10). In 2003 there were three additional publications that reinforced the concept that IL-27 promoted TH1 responses from the groups at Genentech, DNAX and Hiroki Yoshida (11-13). Articles in 2004/2005 (14, 15) continued to highlight the ability of IL-27 to promote the production of IFN- $\gamma$  without mention its anti-inflammatory effects.

7. Based on this literature the blockade of the IL-27R would lead to reduced Th1 responses and that enhanced signaling through the IL-27R would lead to increased Th1 responses. In other words, these studies implicitly implied that neutralization of IL-27 or its receptor would be a viable strategy to prevent or ameliorate pathology caused by Th1 type responses, for instance in the setting of autoimmunity or transplantation. Alternatively, they implied that using IL-27 or promoting signaling through its receptor could be used to augment inflammatory responses; for example during vaccination or cancer therapy.

8. In 2002 we obtained the IL-27R deficient mice from Amgen to determine if the IL-27R was required for the development of protective immunity to the pathogen *Toxoplasma gondii*. Immunity to this organism is dependent on the ability to produce IFN- $\gamma$  and based on the then existing dogma, we postulated that in the absence of the IL-27R that mice would be unable to mount a protective inflammatory response characterized by the production of IFN- $\gamma$ . Our studies with the IL-27R KO mice demonstrated that, contrary to all expectations, when infected with *T. gondii* they developed a hyper-inflammatory response characterized by excessive production of IFN- $\gamma$  (and other cytokines) and that the CD4+ T cells in these mice mediated disease. These studies were published in *Immunity* in late 2003 (16) almost a year after the initial patent disclosure. These studies were accompanied by a manuscript from our collaborator, Hiroki Yoshida, that reached a similar conclusion with a different pathogen (17).

9. The finding that the IL-27R was in fact required to dampen inflammatory responses was regarded as extremely novel and was highlighted in an accompanying commentary article (18), by authors associated with Schering Plough/DNAX. In that article they noted that "These data suggest that IL-27 not only is dispensable for the generation of Th1 responses in strongly polarizing conditions, but, likely due to its ability to activate STAT1 and 3, also exerts a powerful negative feedback mechanism that limits T cell hyperactivity and IFN- $\gamma$  production."

10. In contrast to the dogma at the time, the finding that the IL-27R was required to limit immune hyperactivity implied that IL-27 or promoting signaling through the IL-27R would be a useful way to turn off inflammation. Alternatively, the neutralization of IL-27 or blocking signaling through the IL-27R might be a useful way to augment immune responses. These key conclusions are the exact opposite of the conclusions provided in 7 above. Subsequent studies since 2004 have provided ample independent examples of situations where IL-27 is a potent antagonist of inflammatory responses (19-26). Rather than listing all of these examples there are multiple reviews and commentaries that highlight the anti-inflammatory properties of IL-27 and its potential use as a therapeutic to block inflammation (27-35).

11. We do not disagree with the initial conclusion that, under certain circumstances, IL-27 may promote inflammatory responses and there is an established literature on this facet of IL-27 biology. Rather, we would contend that the observation that the IL-27R was actually a potent inhibitor of inflammation was unexpected and would not have been predicted based on the pre-existing literature in 2003.

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